IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

THURSDAY, THE 8TH MARCH 2007 / 17TH PHALGUNA 1928

WP(C).No. 6019 of 2006(N)

PETITIONER:

T.K.GEORGE VAIDYAN,
THENGUVILAYIL HOUSE, MYNAGAPPALLY,
THEVALAKKARA, KOLLAM.

BY ADV. SRI.R.RAMADAS

RESPONDENTS:
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1. KERALA FINANCIAL CORPORATION,
REPRESENTED BY ITS MANAGING DIRECTOR,
H.O. VELLAYAMBALAM, THIRUVANANTHAPURAM.

2. THE CHIEF MANAGER,
KERALA FINANCIAL CORPORATION,
BRANCH OFFICE, Y.M.C.A.BUILDING,
KOLLAM.

*3. EXECUTIVE ENGINEER, ROADS DIVISION,
PWD, KOLLAM.

BY ADV. SRI.A.A.ABUL HASSAN, SC, KFC
GOVERNMENT PLEADER SRI.P.A.SALIM

* ADDITIONAL R3 IS IMPLEADED AS PER ORDER DATED 27.7.06 IN I.A.3386/06.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE LETTER NO.DB6-4112/98 DATED 22.9.2003 ISSUED BY THE SUPERINTENDING ENGINEER, P.W.D ROADS AND BRIDGES, TO THE 2ND RESPONDENT.

EXT.P2: COPY OF THE LETTER NO.KFC/KIM/100301590/2004 DATED 16.8.2008 FROM THE 2ND RESPONDENT TO THE PETITIONER.

EXT.P3: COPY OF THE REPLY DATED 13.12.2004 BY THE PETITIONER TO THE 2ND RESPONDENT.

EXT.P4: COPY OF THE LETTER NO.KFC/KLM/100288310/515/05 DATED 20.6.2005 FROM THE 2ND RESPONDENT TO THE PETITIONER.

EXT.P5: COPY OF THE REPLY DATED 28.9.2005 BEFORE THE 2ND RESPONDENYT BY THE PETITIONER.

EXT.P6: COPY OF THE LETTER BEFORE THE 2ND RESPONDENT BY THE PETITIONER.

EXT.P7: COPY OF THE NOTICE NO.KFC/KLM/R/100301590/3988/2006 DATED 6.2.2006 FROM THE 2ND RESPONDENT TO THE PETITIONER.

RESPONDENT'S EXHIBITS:

EXT.R1(a): COPY OF THE STATEMENT OF ACCOUNTS AS ON 30.06.2006

EXT.R1(b): COPY OF THE LETTER NO.D5-489/98 DATED 23.12.2005.

EXT.R1(c): COPY OF THE JUDGMENT IN W.P.(C).NO.29323/2005 DATED 1.12.2005 PASSED BY THIS HON'BLE COURT.

BKN //TRUE COPY//

P.A. TO JUDGE.

J.B.KOSHY & T.R.RAMACHANDRAN NAIR, JJ.

W.P.(C).NO.6019 OF 2006

Dated this the 8th day of March,2007.

J U D G M E N T

Koshy, J.

The petitioner is a P.W.D. contractor. Petitioner entered into an agreement with the Superintending Engineer, Roads and Bridges, for construction of Oachira-Ayiramthengu Road and the bill amount is due to the petitioner. Petitioner availed a loan from K.F.C. for the purpose of doing the above work. It is the contention of the petitioner that if the admitted bill amount is not paid by the Government, the petitioner could not repay the amount due to K.F.C. within the time stipulated. The reason stated for non-payment of the bill by the P.W.D authority was that there are several other contractors waiting for the same and the payment can be disbursed only on priority basis. Admitted amount due to the petitioner is Rs.4,95,988/-. The admitted amount was due in April, 2005. Since admitted amount was not paid in time, dues to K.F.C are increased due to the interest. Now we are in 2007. On the facts of the case, we find there is no justification in not paying the admitted bill amount by R3. Government should act fairly. Rs.4,95,988/- should be paid by R3 on account of the petitioner to K.F.C. directly with interest at the rate of 9% per annum from the date

it became due and the above amount should be credited to the K.F.C on the loan account of the petitioner, within one month from the date of receipt of the judgment and balance amount if any can be demanded by the K.F.C by fresh demand notice after giving the statement of accounts. Further we note that if there is any further delay in payment of amount by R3, the liability to pay th entire interest demanded by K.F.C. will be on R3. In the meanwhile K.F.C. shall not take coercive steps.

J.B.KOSHY, JUDGE.

T.R.RAMACHANDRAN NAIR, JUDGE.

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